

1 Beth E. Terrell, CSB #178181
2 Email: bterrell@terrellmarshall.com
3 Mary B. Reiten, CSB #203412
4 Email: mreiten@terrellmarshall.com
5 Adrienne D. McEntee, *Admitted Pro Hac Vice*
6 Email: amcentee@terrellmarshall.com
7 TERRELL MARSHALL LAW GROUP PLLC
8 936 North 34th Street, Suite 300
9 Seattle, Washington 98103-8869
10 Telephone: (206) 816-6603
11 Facsimile: (206) 319-5450

12 [Additional counsel appear on signature page]

13 *Attorneys for Plaintiffs*

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

BEE, DENNING, INC., d/b/a
PRACTICE PERFORMANCE
GROUP; and GREGORY CHICK,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

CAPITAL ALLIANCE GROUP; and
NARIN CHARANVATTANAKIT,

Defendants.

NO. 3:13-cv-02654-BAS-WVG

**MEMORANDUM OF POINTS
AND AUTHORITY IN SUPPORT
OF MOTION FOR FINAL
APPROVAL**

Complaint Filed: 11/5/13

DEMAND FOR JURY TRIAL

Honorable Cynthia Bashant

DATE: November 14, 2016

TIME: 10:30 a.m.

COURTROOM: 4B, 4th Fl. Schwartz

MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL
3:13-cv-02654-BAS-WVG
3:14-cv-02915-JLS-MDD

1 DANIELA TORMAN, individually
2 and on behalf of all others similarly
3 situated,

4 v.
5

6 CAPITAL ALLIANCE GROUP d/b/a
7 CAPITAL ALLIANCE d/b/a
8 BANKCAPITAL d/b/a
9 BANKCAPITAL DIRECT d/b/a
TRUSTED BANCORP, NARIN
CHARANVATTANAKIT a/k/a
NARAN CHARAN a/k/a CLAYTON
HEATH, and JOHN DOES 1-10,

10 Defendants.
11

12 NO. 3:14-cv-02915-JLS-MDD
13

14 Honorable Janis L. Sammartino
15

16
17
18
19
20
21
22
23
24
25
26
27
28
MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL
3:13-cv-02654-BAS-WVG
3:14-cv-02915-JLS-MDD

TABLE OF CONTENTS

2	Page	
3	I. INTRODUCTION	1
4		
5	II. STATEMENT OF FACTS	1
6		
7	A. Substantive Allegations.....	1
8		
9	B. Procedural History.....	3
10		
11	III. THE PROPOSED SETTLEMENT	5
12		
13	A. The Settlement Classes.....	5
14		
15	B. Settlement Relief.....	6
16		
17	1. Injunctive Relief Parameters.....	6
18		
19	2. Class Representative Service Awards.....	8
20		
21	3. Attorneys' Costs.....	8
22		
23	4. No Release by Settlement Class Members	8
24		
25	5. Notice to Settlement Class Members.....	8
26		
27	IV. ARGUMENT AND AUTHORITY	9
28		
29	A. The Settlement Approval Process	9
30		
31	B. The Criteria for Settlement Approval Are Satisfied	10
32		
33	1. Extent of Discovery Completed and Stage of the	
34	Proceedings	10
35		
36	2. Experience and Views of Counsel.....	11
37		

MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL
3:13-cv-02654-BAS-WVG

1	3.	Amount of the Proposed Settlement	12
2	4.	Risk of Further Litigation	13
3	5.	Class Members' Reaction to the Settlement	14
4	6.	Extensive, Arm's-Length Negotiations and Lack of Collusion.....	14
5	C.	Class Notice Has Been Disseminated	15
6	D.	The Settlement Classes Should be Finally Certified.....	15
7	V.	CONCLUSION	16

27
28
MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL
ii 3:13-cv-02654-BAS-WVG
3:14-cv-02915-JLS-MDD

TABLE OF AUTHORITIES

		Page
2		
3	<i>Bee, Denning, Inc. v. Capital All. Grp.,</i>	
4	310 F.R.D. 614 (S.D. Cal. 2015)	4, 11
5		
6	<i>Boyd v. Bechtel Corp.,</i>	
7	485 F. Supp. 610 (N.D. Cal. 1979)	11
8		
9	<i>Class Plaintiffs v. City of Seattle,</i>	
10	955 F.2d 1268 (9th Cir. 1992)	9
11		
12	<i>Cotton v. Hinton,</i>	
13	559 F.2d 1326 (5th Cir. 1977)	13
14		
15	<i>Grant v. Capital Mgmt. Servs., L.P.,</i>	
16	No. 10-cv-2471-WQH (BGS),	
17	2014 WL 888665 (S.D. Cal. Mar. 5, 2014)	12
18		
19	<i>Hanlon v. Chrysler Corp.,</i>	
20	150 F.3d 1011 (9th Cir. 1998)	9, 14
21		
22	<i>In re Bluetooth Headset Prods. Liab. Litig.,</i>	
23	654 F.3d 935 (9th Cir. 2010)	14
24		
25	<i>In re Capital One Tel. Consumer Prot. Act Litig.,</i>	
26	80 F. Supp. 3d 781 (N.D. Ill. 2015)	13, 14
27		
28	<i>In re Mego Fin. Corp. Sec. Litig.,</i>	
29	213 F.3d 454 (9th Cir. 2000)	10
30		
31	<i>In re Omnivision Technologies, Inc.,</i>	
32	559 F. Supp. 2d 1036 (N.D. Cal. 2007)	11
33		
34	<i>In re Online DVD,</i>	
35	779 F.3d 934 (9th Cir. 2015)	14
36		

MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL
3:13-cv-02654-BAS-WVG
3-14-2015-H.S. MDP

<i>Kim v. Space Pencil, Inc.</i> , C 11-03796 LB, 2012 WL 5948951 (N.D. Cal. Nov. 28, 2012).....	12, 13
<i>Lane v. Facebook</i> , 696 F.3d 811 (9th Cir. 2012)	9
<i>Linney v. Cellular Alaska P'ship</i> , 151 F.3d 1234 (9th Cir. 1998)	10
<i>Mims v. Arrow Fin. Servs., LLC</i> , 132 S.Ct. 740 (2012).....	12
<i>Officers for Justice v. Civil Serv. Comm'n of the City & Cnty. of San Francisco</i> , 688 F.2d 615 (9th Cir. 1982)	13
<i>Ontiveros v. Zamora</i> , 303 F.R.D. 356 (E.D. Cal. 2014)	10
<i>Smith v. CRST Van Expedited, Inc.</i> , No. 10-CV-1116-IEG (WMC) 2013 WL 163293 (S.D. Cal. Jan. 14, 2013)	9
<i>United States v. Armour & Co.</i> , 402 U.S. 673 (1971)	13
FEDERAL RULES	
Fed. R. Civ. P. 23	4, 9, 12, 15
FEDERAL STATUTES	
47 U.S.C. §§ 227(a)(4).....	7
OTHER AUTHORITIES	
William B. Rubenstein, <i>Newberg on Class Actions</i> (“Newberg”) § 13.1 (5th ed. updated 2015)	9

OTHER AUTHORITIES

William B. Rubenstein,
Newberg on Class Actions (“Newberg”) § 13.1 (5th ed. updated 2015) 9

MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL
3:13-cv-02654-BAS-WVG
3-14-2015, H.S. MDP

I. INTRODUCTION

Plaintiffs and Defendants have reached a Settlement that provides injunctive relief to Settlement Class Members who were harassed and annoyed by Defendants' robocalls and junk faxes. The Settlement requires Defendants to make significant changes to the way in which they obtain and memorialize the receipt of consent from consumers to receive fax transmissions and prerecorded calls on their cell phones; subscribe to the national do-not-call registry; change policies and procedures for training staff regarding the requirements of the TCPA and compliance with the TCPA; and submit to a two-year reporting period in which Defendants are to certify compliance with the injunction on a bi-annual basis.

The Settlement Plaintiffs achieved is fair, adequate, and reasonable, and merits final approval. Settlement Class Members agree, as none have filed objections. Accordingly, Plaintiffs request that the Court grant final approval to the Settlement by: (1) approving the Settlement Agreement; (2) determining that the notice described in the Settlement Agreement was provided to the Settlement Classes; (3) finally certifying the Settlement Classes; (4) granting Class Counsel \$22,096 in costs; and (5) approving incentive payments of \$4,819 each to Plaintiffs Bee, Denning, Inc., Gregory Chick, and Daniela Torman.

II. STATEMENT OF FACTS

A. Substantive Allegations

Defendants Capital Alliance and Narin Charanvattanakit (“Narin”) match lenders with small businesses seeking loans. *See* NO. 3:13-cv-02654-BAS-WVG (“Bee Case”), Dkt. No. 23-1. Capital Alliance promises a “quick and simple” way for small businesses to get cash. *Id.* Capital Alliance funds loans quickly, sometimes within a week of receiving an application. *Id.* The loans are generally

MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL

1 unsecured and collect interest at rates higher than typical credit card interest of
 2 12% to 14%. *Id.* At one time, Defendants employed forty-seven sales people, all
 3 of whom primarily fielded inbound phone calls from prospective borrowers. *Id.*

4 To obtain customers, Defendants retained vendor Absolute Fax to solicit
 5 business through junk faxes. *See Bee Case, Dkt. No. 23-1.* Absolute Fax
 6 touts itself as a “global fax broadcast provider” that “focuses on fax marketing
 7 and nothing else.” *Id.* Capital Alliance also engages in mass telemarketing, using
 8 an autodialer to send prerecorded advertisements to millions of prospective
 9 customers. *Id.* Defendants paid Message Communications, a telemarketing
 10 company that leaves prerecorded messages, “for marketing leads” it generated
 11 through robocalling campaigns. *Id.*

12 Defendant Narin is heavily involved in Capital Alliance’s operations,
 13 including its junk fax and telemarketing activities. *See Bee Case, Dkt. No. 23-1.*
 14 As CEO of Capital Alliance, Narin manages daily operations, directs sales
 15 activities and motivates Capital Alliance’s employees. *Id.* Narin’s personal
 16 involvement extends to Capital Alliance’s use of junk faxing and robocalling to
 17 solicit new business. *Id.* Narin is the person at Capital Alliance who knows the
 18 details regarding Capital Alliance’s junk fax and telemarketing efforts. *Id.*
 19 Indeed, Narin was the point person at Capital Alliance regarding the company’s
 20 junk fax marketing efforts. *Id.* He was also the point person regarding Capital
 21 Alliance’s robocalling telemarketing campaigns and personally provided the
 22 content for the prerecorded messages used by Message Communications. *Id.*

23 Plaintiffs allege that Defendants have sent junk faxes to 558,022 small
 24 business owners, including Plaintiff Bee, soliciting their business. *Bee Case, Dkt.*
 25 *No. 23-1; see also Dkt. No. 71-2 at ¶ 15.* Capital Alliance is not identified on
 26 these faxes. Instead, Capital Alliance uses a number of aliases to disguise the fact

27
 28
 MEMORANDUM OF POINTS AND
 AUTHORITY IN SUPPORT OF
 MOTION FOR FINAL APPROVAL

1 that Capital Alliance has caused the fax to be transmitted. Bee Case, Dkt. No. 23-
 2 1. These aliases include “Community,” “Community Business Funding,” “Fast
 3 Working Capital,” “Snap Business Funding,” “Zoom Capital,” “Nextday
 4 Business Loans,” “3DayLoans,” “Bank Capital,” “FundQuik,” “Prompt,” and
 5 “Simple Business Funding.” *Id.* Despite the disguise, the faxes sent using these
 6 names are easily traceable to Capital Alliance. *Id.*

7 In addition to sending junk faxes to obtain business, Defendants also
 8 engage in illegal robocalling. Bee Case, Dkt. No. 23-1. Based on information
 9 obtained by Plaintiffs obtained by subpoena, Defendants made prerecorded calls
 10 to 9,424 unique cell phone numbers. Dkt. No. 71-2 at ¶ 15. For example, on
 11 December 6, 2013, Plaintiff Chick received a telephone call from Defendants, or
 12 on Defendants’ behalf, with a prerecorded message about preapproval for a
 13 business loan. *Id.* Similarly, Plaintiff Torman received four prerecorded
 14 messages from Defendants, or on Defendants’ behalf, soliciting Defendants’
 15 loans. *See* NO. 3:14-cv-02915-JLS-MDD (“Torman Case”), Dkt. No. 1.

16 **B. Procedural History**

17 Plaintiff Bee, Denning, Inc. initiated this class action lawsuit against
 18 Defendant Capital Alliance Group on November 5, 2013 on behalf of herself and
 19 other similarly situated individuals who received unwanted, unauthorized, faxes
 20 advertising a short term business loan. Bee Case, Dkt. No. 1. One month later,
 21 Plaintiff amended the complaint to add as a Defendant Narin Charanvattanakit, as
 22 well as Plaintiff Gregory Chick, on behalf of himself and other similarly situated
 23 individuals who received unwanted, unauthorized prerecorded messages on their
 24 cellular telephones. *Id.*, Dkt. No. 6.

25 In 2014, Plaintiff Daniela Torman brought a separate class action lawsuit
 26 against Defendants in the District of Nevada. On July 27, 2015, upon stipulation

27
 28 MEMORANDUM OF POINTS AND
 AUTHORITY IN SUPPORT OF
 MOTION FOR FINAL APPROVAL

1 of the Parties, the Nevada District Court ordered that the Torman Case be
 2 transferred to the “Southern District of California pursuant to the Ninth Circuit
 3 first-to-file rule because it is substantially similar to” the *Bee* Case. *See* Torman
 4 Case, Dkt. No. 22. On September 29, 2015, Plaintiff Torman and the Defendants
 5 jointly moved this Court to consolidate the Torman and Bee Cases. *Id.*, Dkt. No.
 6 31. The Court initially denied a joint motion to consolidate the cases, but later
 7 granted a renewed motion to consolidate.

8 On September 5, 2015, after having engaged in extensive discovery,
 9 including propounding written discovery to Defendants, issuing subpoenas to
 10 third parties, and taking the depositions of Defendant Narin and Capital
 11 Alliance’s Operations Manager, Christina Duncan, the Plaintiffs in the Bee Case
 12 moved to certify two classes under Rule 23(b)(3). *See* Bee Case, Dkt. No. 23-1.
 13 The Court amended the class definition of the “Automated Call Class” and
 14 certified that class, along with a “Junk Fax Class.” *See Bee, Denning, Inc. v.*
 15 *Capital All. Grp.*, 310 F.R.D. 614, 619 (S.D. Cal. 2015).

16 Subsequently, on December 10, 2015, the Parties participated in mediation.
 17 *Id.* Unable to reach an agreement, the Parties participated in a settlement
 18 conference before Magistrate Judge Gallo on April 27, 2016. Dkt. No. 71-2 at ¶
 19 19. As part of those discussions, Plaintiffs reviewed Defendants’ financial
 20 information. *Id.* ¶ 17. Based on this review, Plaintiffs determined that
 21 Defendants had insufficient finances to provide financial relief to proposed class
 22 members. *Id.* Moreover, even if there were available assets, they would first
 23 need to satisfy hundreds of thousands of dollars in liens before any relief could go
 24 to class members. *Id.*

25 Despite the stark reality of Defendants’ finances, with the Court’s help, the
 26 Parties explored other ways to provide relief to class members during the

27
 28

MEMORANDUM OF POINTS AND
 AUTHORITY IN SUPPORT OF
 MOTION FOR FINAL APPROVAL

1 settlement conferences. Dkt. No. 71-2 at ¶ 19. Although Defendants' finances
 2 made it impossible to provide monetary relief to class members, the Parties and
 3 the Court determined that class members would benefit from injunctive relief that
 4 required Defendants and any successors to make significant changes to their
 5 autodialing practices. *Id.* Since the settlement conference, counsel for Plaintiffs
 6 have worked rigorously with Defendants to reach a Settlement, comprised largely
 7 of a compliance plan that will provide appropriate relief to class members. *See*
 8 Dkt. No. 71-3 ("Settlement Agreement").

9 **III. THE PROPOSED SETTLEMENT**

10 **A. The Settlement Classes**

11 The Settlement's terms were summarized in Plaintiffs' preliminary
 12 approval papers (Dkts. Nos. 71-1, 71-2, 71-3), are contained in the Settlement
 13 Agreement (Dkt. No. 71-3), and are again summarized below for the Court's
 14 convenience. Settlement Class Members fall within two "Settlement Classes"
 15 defined as:

16 **Junk Fax Class:**

17 All persons or entities in the United States who, on or after
 18 November 5, 2009, were sent by or on behalf of Defendants one
 19 or more unsolicited advertisements by telephone facsimile
 20 machine that bear the business name Community, Community
 21 Business Funding, Fast Working Capital, Snap Business Funding,
 22 Zoom Capital, Nextday Business Loans, 3DayLoans, Bank
 23 Capital, FundQuik, Prompt, or Simple Business Funding.

24 **Automated Call Class:**

25 All persons or entities in the United States who, on or after
 26 November 5, 2009, received a call on their cellular telephone with
 27 a prerecorded voice message from the number 888-364-6330 that
 28 was made by or on behalf of Defendants.

29
 30
 31
 32
 33
 34
 35
 36
 37
 38
 39
 40
 41
 42
 43
 44
 45
 46
 47
 48
 49
 50
 51
 52
 53
 54
 55
 56
 57
 58
 59
 60
 61
 62
 63
 64
 65
 66
 67
 68
 69
 70
 71
 72
 73
 74
 75
 76
 77
 78
 79
 80
 81
 82
 83
 84
 85
 86
 87
 88
 89
 90
 91
 92
 93
 94
 95
 96
 97
 98
 99
 100
 101
 102
 103
 104
 105
 106
 107
 108
 109
 110
 111
 112
 113
 114
 115
 116
 117
 118
 119
 120
 121
 122
 123
 124
 125
 126
 127
 128
 129
 130
 131
 132
 133
 134
 135
 136
 137
 138
 139
 140
 141
 142
 143
 144
 145
 146
 147
 148
 149
 150
 151
 152
 153
 154
 155
 156
 157
 158
 159
 160
 161
 162
 163
 164
 165
 166
 167
 168
 169
 170
 171
 172
 173
 174
 175
 176
 177
 178
 179
 180
 181
 182
 183
 184
 185
 186
 187
 188
 189
 190
 191
 192
 193
 194
 195
 196
 197
 198
 199
 200
 201
 202
 203
 204
 205
 206
 207
 208
 209
 210
 211
 212
 213
 214
 215
 216
 217
 218
 219
 220
 221
 222
 223
 224
 225
 226
 227
 228
 229
 230
 231
 232
 233
 234
 235
 236
 237
 238
 239
 240
 241
 242
 243
 244
 245
 246
 247
 248
 249
 250
 251
 252
 253
 254
 255
 256
 257
 258
 259
 260
 261
 262
 263
 264
 265
 266
 267
 268
 269
 270
 271
 272
 273
 274
 275
 276
 277
 278
 279
 280
 281
 282
 283
 284
 285
 286
 287
 288
 289
 290
 291
 292
 293
 294
 295
 296
 297
 298
 299
 300
 301
 302
 303
 304
 305
 306
 307
 308
 309
 310
 311
 312
 313
 314
 315
 316
 317
 318
 319
 320
 321
 322
 323
 324
 325
 326
 327
 328
 329
 330
 331
 332
 333
 334
 335
 336
 337
 338
 339
 340
 341
 342
 343
 344
 345
 346
 347
 348
 349
 350
 351
 352
 353
 354
 355
 356
 357
 358
 359
 360
 361
 362
 363
 364
 365
 366
 367
 368
 369
 370
 371
 372
 373
 374
 375
 376
 377
 378
 379
 380
 381
 382
 383
 384
 385
 386
 387
 388
 389
 390
 391
 392
 393
 394
 395
 396
 397
 398
 399
 400
 401
 402
 403
 404
 405
 406
 407
 408
 409
 410
 411
 412
 413
 414
 415
 416
 417
 418
 419
 420
 421
 422
 423
 424
 425
 426
 427
 428
 429
 430
 431
 432
 433
 434
 435
 436
 437
 438
 439
 440
 441
 442
 443
 444
 445
 446
 447
 448
 449
 450
 451
 452
 453
 454
 455
 456
 457
 458
 459
 460
 461
 462
 463
 464
 465
 466
 467
 468
 469
 470
 471
 472
 473
 474
 475
 476
 477
 478
 479
 480
 481
 482
 483
 484
 485
 486
 487
 488
 489
 490
 491
 492
 493
 494
 495
 496
 497
 498
 499
 500
 501
 502
 503
 504
 505
 506
 507
 508
 509
 510
 511
 512
 513
 514
 515
 516
 517
 518
 519
 520
 521
 522
 523
 524
 525
 526
 527
 528
 529
 530
 531
 532
 533
 534
 535
 536
 537
 538
 539
 540
 541
 542
 543
 544
 545
 546
 547
 548
 549
 550
 551
 552
 553
 554
 555
 556
 557
 558
 559
 560
 561
 562
 563
 564
 565
 566
 567
 568
 569
 570
 571
 572
 573
 574
 575
 576
 577
 578
 579
 580
 581
 582
 583
 584
 585
 586
 587
 588
 589
 590
 591
 592
 593
 594
 595
 596
 597
 598
 599
 600
 601
 602
 603
 604
 605
 606
 607
 608
 609
 610
 611
 612
 613
 614
 615
 616
 617
 618
 619
 620
 621
 622
 623
 624
 625
 626
 627
 628
 629
 630
 631
 632
 633
 634
 635
 636
 637
 638
 639
 640
 641
 642
 643
 644
 645
 646
 647
 648
 649
 650
 651
 652
 653
 654
 655
 656
 657
 658
 659
 660
 661
 662
 663
 664
 665
 666
 667
 668
 669
 670
 671
 672
 673
 674
 675
 676
 677
 678
 679
 680
 681
 682
 683
 684
 685
 686
 687
 688
 689
 690
 691
 692
 693
 694
 695
 696
 697
 698
 699
 700
 701
 702
 703
 704
 705
 706
 707
 708
 709
 710
 711
 712
 713
 714
 715
 716
 717
 718
 719
 720
 721
 722
 723
 724
 725
 726
 727
 728
 729
 730
 731
 732
 733
 734
 735
 736
 737
 738
 739
 740
 741
 742
 743
 744
 745
 746
 747
 748
 749
 750
 751
 752
 753
 754
 755
 756
 757
 758
 759
 760
 761
 762
 763
 764
 765
 766
 767
 768
 769
 770
 771
 772
 773
 774
 775
 776
 777
 778
 779
 780
 781
 782
 783
 784
 785
 786
 787
 788
 789
 790
 791
 792
 793
 794
 795
 796
 797
 798
 799
 800
 801
 802
 803
 804
 805
 806
 807
 808
 809
 810
 811
 812
 813
 814
 815
 816
 817
 818
 819
 820
 821
 822
 823
 824
 825
 826
 827
 828
 829
 830
 831
 832
 833
 834
 835
 836
 837
 838
 839
 840
 841
 842
 843
 844
 845
 846
 847
 848
 849
 850
 851
 852
 853
 854
 855
 856
 857
 858
 859
 860
 861
 862
 863
 864
 865
 866
 867
 868
 869
 870
 871
 872
 873
 874
 875
 876
 877
 878
 879
 880
 881
 882
 883
 884
 885
 886
 887
 888
 889
 890
 891
 892
 893
 894
 895
 896
 897
 898
 899
 900
 901
 902
 903
 904
 905
 906
 907
 908
 909
 910
 911
 912
 913
 914
 915
 916
 917
 918
 919
 920
 921
 922
 923
 924
 925
 926
 927
 928
 929
 930
 931
 932
 933
 934
 935
 936
 937
 938
 939
 940
 941
 942
 943
 944
 945
 946
 947
 948
 949
 950
 951
 952
 953
 954
 955
 956
 957
 958
 959
 960
 961
 962
 963
 964
 965
 966
 967
 968
 969
 970
 971
 972
 973
 974
 975
 976
 977
 978
 979
 980
 981
 982
 983
 984
 985
 986
 987
 988
 989
 990
 991
 992
 993
 994
 995
 996
 997
 998
 999
 1000
 1001
 1002
 1003
 1004
 1005
 1006
 1007
 1008
 1009
 1010
 1011
 1012
 1013
 1014
 1015
 1016
 1017
 1018
 1019
 1020
 1021
 1022
 1023
 1024
 1025
 1026
 1027
 1028
 1029
 1030
 1031
 1032
 1033
 1034
 1035
 1036
 1037
 1038
 1039
 1040
 1041
 1042
 1043
 1044
 1045
 1046
 1047
 1048
 1049
 1050
 1051
 1052
 1053
 1054
 1055
 1056
 1057
 1058
 1059
 1060
 1061
 1062
 1063
 1064
 1065
 1066
 1067
 1068
 1069
 1070
 1071
 1072
 1073
 1074
 1075
 1076
 1077
 1078
 1079
 1080
 1081
 1082
 1083
 1084
 1085
 1086
 1087
 1088
 1089
 1090
 1091
 1092
 1093
 1094
 1095
 1096
 1097
 1098
 1099
 1100
 1101
 1102
 1103
 1104
 1105
 1106
 1107
 1108
 1109
 1110
 1111
 1112
 1113
 1114
 1115
 1116
 1117
 1118
 1119
 1120
 1121
 1122
 1123
 1124
 1125
 1126
 1127
 1128
 1129
 1130
 1131
 1132
 1133
 1134
 1135
 1136
 1137
 1138
 1139
 1140
 1141
 1142
 1143
 1144
 1145
 1146
 1147
 1148
 1149
 1150
 1151
 1152
 1153
 1154
 1155
 1156
 1157
 1158
 1159
 1160
 1161
 1162
 1163
 1164
 1165
 1166
 1167
 1168
 1169
 1170
 1171
 1172
 1173
 1174
 1175
 1176
 1177
 1178
 1179
 1180
 1181
 1182
 1183
 1184
 1185
 1186
 1187
 1188
 1189
 1190
 1191
 1192
 1193
 1194
 1195
 1196
 1197
 1198
 1199
 1200
 1201
 1202
 1203
 1204
 1205
 1206
 1207
 1208
 1209
 1210
 1211
 1212
 1213
 1214
 1215
 1216
 1217
 1218
 1219
 1220
 1221
 1222
 1223
 1224
 1225
 1226
 1227
 1228
 1229
 1230
 1231
 1232
 1233
 1234
 1235
 1236
 1237
 1238
 1239
 12310
 12311
 12312
 12313
 12314
 12315
 12316
 12317
 12318
 12319
 12320
 12321
 12322
 12323
 12324
 12325
 12326
 12327
 12328
 12329
 12330
 12331
 12332
 12333
 12334
 12335
 12336
 12337
 12338
 12339
 12340
 12341
 12342
 12343
 12344
 12345
 12346
 12347
 12348
 12349
 12350
 12351
 12352
 12353
 12354
 12355
 12356
 12357
 12358
 12359
 12360
 12361
 12362
 12363
 12364
 12365
 12366
 12367
 12368
 12369
 12370
 12371
 12372
 12373
 12374
 12375
 12376
 12377
 12378
 12379
 12380
 12381
 12382
 12383
 12384
 12385
 12386
 12387
 12388
 12389
 12390
 12391
 12392
 12393
 12394
 12395
 12396
 12397
 12398
 12399
 12400
 12401
 12402
 12403
 12404
 12405
 12406
 12407
 12408
 12409
 12410
 12411
 12412
 12413
 12414
 12415
 12416
 12417
 12418
 12419
 12420
 12421
 12422
 12423
 12424
 12425
 12426
 12427
 12428
 12429
 12430
 12431
 12432
 12433
 12434
 12435
 12436
 12437
 12438
 12439
 12440
 12441
 12442
 12443
 12444
 12445
 12446
 12447
 12448
 12449
 12450
 12451
 12452
 12453
 12454
 12455
 12456
 12457
 12458
 12459
 12460
 12461
 12462
 12463
 12464
 12465
 12466
 12467
 12468
 12469
 12470
 12471
 12472
 12473
 12474
 12475
 12476
 12477
 12478
 12479
 12480
 12481
 12482
 12483
 12484
 12485
 12486
 12487
 12488
 12489
 12490
 12491
 12492
 12493
 12494
 12495
 12496
 12497
 12498
 12499
 12500
 12501
 12502
 12503
 12504
 12505
 12506
 12507
 12508
 12509
 12510
 12511
 12

B. Settlement Relief

1. Injunctive Relief Parameters

The Settlement Agreement provides injunctive relief to the Settlement Classes that requires Defendants to stop practices that were previously part of their business model. The injunctive relief consists of significant changes to the way in which Defendants obtain and memorialize the receipt of consent from consumers to receive fax transmissions and prerecorded calls on their cell phones; requiring Defendants to subscribe to the national do-not-call registry; changes to policies and procedures for training staff with respect to the requirements of the TCPA and compliance with the TCPA; and submission to a two-year reporting period in which Defendants are to certify compliance with the injunction on a bi-annual basis. Settlement Agreement, § D. Specifically:

a. Defendants and Defendants' successors shall establish written procedures for TCPA compliance;

b. Defendants and Defendants' successors shall conduct annual training sessions directed to TCPA compliance:

c. Defendants and Defendants' successors shall maintain a list of telephone numbers of persons who request not to be contacted:

d. Defendants and Defendants' successors shall subscribe to a version of the national do-not-call registry obtained no more than three months prior to the date any call is made (with records documenting such compliance).

e. Defendants and Defendants' successors shall establish internal processes to ensure that Defendants and Defendants' successors do not sell, rent, lease, purchase or use the do-not-call database in any manner except in compliance with TCPA regulations;

MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL

f. Defendants and Defendants' successors shall scrub for cellular telephones before making autodialed calls or calls made with an artificial voice or use or prerecorded messages;

g. Defendants and Defendants' successors shall not call cellular telephones prior to receipt of the express written permission of the intended recipient, including the intended recipient's signature;

h. All prerecorded messages, whether delivered by automated dialing equipment or not, must identify Capital Alliance or any successor entity, and the specific “d/b/a” as the entity responsible for initiating the call, along with the telephone number that can be used during normal business hours to ask not to be called again;

i. All fax transmissions that include “unsolicited advertisements” as defined in 47 U.S.C. §§ 227(a)(4) must be preceded by the receipt of the express written permission of the intended recipient, including the intended recipient's signature;

j. Defendants and Defendants' successors must maintain records demonstrating that recipients have provided such express permission to send fax advertisements; and

k. Defendants shall make a bi-annual report to Class Counsel outlining their compliance with the TCPA injunction and any issues that may have arisen. Defendants agree to submit copies of any putative individual or class action lawsuits filed against them and asserting one or more claims pursuant to the TCPA during the reporting period to Class Counsel beginning 6 months from the date that this agreement is signed and every 6 months thereafter until expiration of the injunction. Reports from Defendants are due on November 18, 2016, May 18, 2017, November 18, 2017, and May 18, 2018.

MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL

2. Class Representative Service Awards

The Settlement Agreement also provides that each of the three Plaintiffs to receive \$4,819 (collectively, \$14,457) for his or her statutory damages and services as representatives of the Classes. Settlement Agreement ¶ 2.3. These awards will compensate Plaintiffs for their time and effort and for the risk they undertook in prosecuting this case, as further set forth in Plaintiffs' Motion for Costs and Incentive Awards. *See* Dkt. No. 76-1.

3. Attorneys' Costs

Defendants have agreed to pay Class Counsel's costs in the amount of twenty-two thousand ninety-six dollars (\$22,096). Settlement Agreement ¶ 2.4. This amount, which does not include the attorneys' fees Class Counsel have incurred (and which are waived under the Settlement Agreement), is reasonable and necessary in light of the lengthy litigation, as further set forth in Plaintiffs' Motion for Costs and Incentive Awards. *See* Dkt. No. 76-1.

4. No Release by Settlement Class Members

Although the named Plaintiffs have released all of their claims against Defendants, Class Members do not release their rights to pursue individual or collective damages claims against Defendants.

5. Notice to Settlement Class Members

The Settlement Agreement requires Defendants, at Defendants' expense, to hire Heffler Claims Group ("Heffler") to (1) provide Class Notice via U.S. mail to States' Attorneys' General for dissemination to the public; (2) create and maintain a website that provides information, including court documents, regarding the settlement to the Settlement Classes; and (3) create and maintain a call center where the Settlement Classes can obtain information. Settlement Agreement at ¶¶ 2.6, 2.7.

MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL

IV. ARGUMENT AND AUTHORITY

A. The Settlement Approval Process

As a matter of “express public policy,” federal courts strongly favor and encourage settlements, particularly in class actions and other complex matters, where the inherent costs, delays, and risks of continued litigation might otherwise overwhelm any potential benefit the class could hope to obtain. *See Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992) (noting the “strong judicial policy that favors settlements, particularly where complex class action litigation is concerned”); *see also* William B. Rubenstein, *Newberg on Class Actions* (“Newberg”) § 13.1 (5th ed. updated 2015) (citing cases).

A court may approve a class action settlement if it is “fair, reasonable, and adequate.” Fed. R. Civ. P. 23(e)(2). The Court must “review[] the substance of the settlement . . . to ensure that it is ‘fair, adequate, and free of collusion.’” *Lane v. Facebook*, 696 F.3d 811, 819 (9th Cir. 2012) (quoting *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998)). The Court is “not to reach any ultimate conclusions on the contested issues of fact and law which underlie the merits of the dispute, nor is the proposed settlement to be judged against a hypothetical or speculative measure of what might have been achieved by the negotiators.” *Smith v. CRST Van Expedited, Inc.*, No. 10-CV-1116-IEG (WMC) 2013 WL 163293, at *2 (S.D. Cal. Jan. 14, 2013) (internal quotation marks and citation omitted). “In making this appraisal, courts have broad discretion to consider a range of factors such as [1] the strength of the plaintiff’s case; [2] the risk, expense, complexity, and likely duration of further litigation; [3] the risk of maintaining class action status throughout the trial; [4] the amount offered in settlement; [5] the extent of discovery completed and the stage of the proceedings; [6] the experience and views of counsel; [7] the presence of a

MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL

1 government participant; and [8] the reaction of the class members to the proposed
 2 settlement.” *Id.* at *2–3 (internal quotation marks and citation omitted) (finding
 3 the proposed settlement “fair, adequate, and free of collusion” on the grounds that
 4 “the settlement is the product of arms-length negotiations by experienced counsel
 5 before a respected mediator, reached after and in light of years of litigation and
 6 ample discovery into the asserted claims”).

7 As described below in conjunction with the relevant factors, the Settlement
 8 is fair, reasonable, and more than adequate.

9 **B. The Criteria for Settlement Approval Are Satisfied**

10 1. Extent of Discovery Completed and Stage of the Proceedings

11 The Court assesses the stage of proceedings and the amount of discovery
 12 completed to ensure the parties have an adequate appreciation of the merits of the
 13 case before reaching a settlement. *See Ontiveros v. Zamora*, 303 F.R.D. 356, 371
 14 (E.D. Cal. 2014) (“A settlement that occurs in an advanced stage of the
 15 proceedings indicates the parties carefully investigated the claims before reaching
 16 a resolution.”). So long as the parties have “sufficient information to make an
 17 informed decision about settlement,” this factor will weigh in favor of approval.
 18 *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1239 (9th Cir. 1998); *see also In*
 19 *re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 459 (9th Cir. 2000) (explaining that
 20 a combination of investigation, discovery, and research conducted prior to
 21 settlement can provide sufficient information for class counsel to make an
 22 informed decision about settlement).

23 Plaintiffs engaged in extensive pre-certification discovery, including
 24 propounding written discovery to Defendants, issuing subpoenas to third parties,
 25 and taking the depositions of Defendant Narin and Capital Alliance’s Operations
 26 Manager, Christina Duncan. Dkt. No. 71-2 at ¶14. Plaintiffs next moved for

27 MEMORANDUM OF POINTS AND
 28 AUTHORITY IN SUPPORT OF
 MOTION FOR FINAL APPROVAL

class certification. *See Bee, Denning, Inc. v. Capital All. Grp.*, 310 F.R.D. 614, 624–31 (S.D. Cal. 2015). Subsequently, the Parties participated in mediation. Dkt. No. 71-2 at ¶19. Unable to reach an agreement, the Parties participated in a settlement conference before the Honorable Judge William V. Gallo. *Id.* Afterward, counsel for Plaintiffs and Defendants worked rigorously with one another to reach a compliance plan that will provide appropriate relief to class members, as memorialized in the Settlement Agreement. *Id.* at ¶¶ 19-20. At the preliminary approval stage, the Court concluded that this factor weighs significantly in favor of approval of the Settlement. Dkt. No. 74 at 15:4-16:7. Plaintiffs request that the Court reach the same conclusion now.

2. Experience and Views of Counsel

The endorsement of the Settlement as being fair, reasonable, and adequate by qualified and well-informed counsel endorse weighs in favor of the Court approving the Settlement. *See In re Omnivision Technologies, Inc.*, 559 F. Supp. 2d 1036, 1043 (N.D. Cal. 2007) (quoting *Boyd v. Bechtel Corp.*, 485 F. Supp. 610, 622 (N.D. Cal. 1979)) (“The recommendations of plaintiffs’ counsel should be given a presumption of reasonableness.”); *Linney v. Cellular Alaska P’ship*, No. C-96-3008 DLJ, 1997 WL 450064, at *5 (N.D. Cal. July 18, 1997) (“The involvement of experienced class action counsel and the fact that the settlement agreement was reached in arm’s length negotiations, after relevant discovery had taken place create a presumption that the agreement is fair.”).

Counsel for the Parties are particularly experienced in the litigation, certification, and settlement of class action cases. *See* Dkt. Nos. 71-2 at ¶¶ 2–13; 71-4 at ¶ 4. In negotiating this settlement, Class Counsel had the benefit of years of experience with class actions in general and a familiarity with the facts of this case in particular. *Id.* At the preliminary approval stage, the Court concluded

MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL

that this factor weighs in favor of approval of the Settlement. Dkt. No. 74 at 16:9-20. Plaintiffs ask that the Court reach the same conclusion here.

3. Amount of the Proposed Settlement

The Settlement Agreement, which requires Defendants to change its business practices, provides significant value to the Settlement Class Members. Prior to this litigation, Defendants had a pattern and practice of making prerecorded calls to cell phones without prior consent, and a pattern and practice of sending junk faxes advertising their products, in violation of the TCPA. The benefit the Settlement Agreement provides to Members of the Settlement Classes is an injunction against further violations of the TCPA. In addition to other requirements, during the two-year period in which the injunction is in effect, Defendants will implement policies and procedures and training geared toward ensuring TCPA compliance, and will obtain written consent before Defendants or their successors place calls to cell phones, or send faxes with unsolicited advertisements.

The injunctive relief obtained for the Settlement Classes comports with the purpose of the TCPA — to protect consumers from unwanted and harassing calls. *See Mims v. Arrow Fin. Servs., LLC*, 132 S.Ct. 740, 745 (2012). Moreover, the relief is consistent with the injunctive relief approved in *Grant v. Capital Mgmt. Servs., L.P.*, No. 10-cv-2471-WQH (BGS), 2014 WL 888665 (S.D. Cal. Mar. 5, 2014), a TCPA case involving similar facts. There, the district court approved a Rule 23(b)(2) settlement that required the defendant to abide by injunctive terms that are similar to those here. *Id.* at *2. Specifically, the defendant was required to adopt identifying and blocking technology it did not previously employ to ensure it did not make unlawful calls, and to provide declarations under perjury every six months confirming compliance with the injunction. *Id.*; *see also Kim v.*

MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL

1 *Space Pencil, Inc.*, C 11-03796 LB, 2012 WL 5948951, at *6 (N.D. Cal. Nov. 28,
 2 2012) (granting final approval of settlement agreement under which class
 3 members only received injunctive relief, but class members were not bound by
 4 settlement agreement).

5 At preliminary approval, the Court found the proposed Settlement to be
 6 both significant and valuable to the Settlement Class Members. Likewise, here,
 7 Plaintiffs ask that the Court find this factor weighs in support of final approval.

8 4. Risk of Further Litigation

9 “[T]he very essence of a settlement is compromise, ‘a yielding of absolutes
 10 and an abandoning of highest hopes.’” *Officers for Justice v. Civil Serv. Comm’n
 11 of the City & Cnty. of San Francisco*, 688 F.2d 615, 624 (9th Cir. 1982) (quoting
 12 *Cotton v. Hinton*, 559 F.2d 1326, 1330 (5th Cir. 1977)). As explained by the
 13 Supreme Court, “[n]aturally, the agreement reached normally embodies a
 14 compromise; in exchange for the saving of cost and elimination of risk, the
 15 parties each give up something they might have won had they proceeded with the
 16 litigation.” *United States v. Armour & Co.*, 402 U.S. 673, 681 (1971).

17 Here, litigation would be lengthy and expensive if this action were to
 18 proceed. Although the Parties engaged in formal informal discovery and
 19 extensive motion work, including Plaintiffs’ motion for class certification, they
 20 have not completed expert discovery, including the exchange of reports and
 21 expert depositions. The step following expert discovery is trial, which is
 22 scheduled to begin in February 2017, nearly a year from now. There is always a
 23 risk of losing a jury trial. And, even if Plaintiffs did prevail at trial, any judgment
 24 could be reversed on appeal (or subject to bankruptcy).

25 As the Court noted in its Preliminary Approval Order, “the average TCPA
 26 case carries a 43% chance of success.” Dkt. No. 74 at 17:27-18:2 (citing *In re*

27
 28 MEMORANDUM OF POINTS AND
 AUTHORITY IN SUPPORT OF
 MOTION FOR FINAL APPROVAL

Capital One Tel. Consumer Prot. Act Litig., 80 F. Supp. 3d 781, 806 (N.D. Ill. 2015). Because the proposed Settlement eliminates litigation risks and ensures that the Settlement Class Members receive substantial and meaningful relief, this factor weighs in favor of final approval.

5. Class Members' Reaction to the Settlement

The deadline for Class Members to object to the Settlement has passed, and none of the Class Members have filed objections.

6. Extensive, Arm's-Length Negotiations and Lack of Collusion

In addition to considering the factors set forth above, the Court’s must ensure that “the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998) (internal quotes and citations omitted); *see also In re Online DVD*, 779 F.3d 934, 944 (9th Cir. 2015) (noting settlements in class actions “present unique due process concerns for absent class members,” including the risk that class counsel “may collude with the defendants”) (quoting *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2010)).

Here, the proposed settlement was negotiated after years of litigation, followed by several months of highly contested settlement negotiations, including a mediation and settlement conference. Counsel for the Parties are particularly experienced in the litigation, certification, trial, and settlement of nationwide class action cases. Dkt. No. 71-2 at ¶¶ 2-13. In negotiating this settlement, Class Counsel had the benefit of years of experience with class actions in general and a familiarity with the facts of this case in particular. *Id.* Moreover, the Parties benefitted from the Court’s active participation throughout the negotiation

MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL

1 process. The fact that Plaintiffs achieved an excellent result for the Settlement
2 Class despite facing significant hurdles is a testament to the fair nature of the
3 proposed Settlement.

4 **C. Class Notice Has Been Disseminated**

5 This Court has already determined that although no notice is required for a
6 Rule 23(b)(2) class action settlement, the notice program in the Settlement
7 Agreement, which takes into account the impracticability of direct notice, meets
8 the requirements of due process and Rule 23, and constitutes appropriate notice
9 under the circumstances. Dkt. No. 74 at 19:1-28. The Settlement Agreement
10 required Defendants, at Defendants' expense, to hire Heffler Claims Group
11 ("Heffler") to (1) provide Class Notice via U.S. mail to States' Attorneys'
12 General for dissemination to the public; (2) create and maintain a website that
13 provides information, including court documents, regarding the settlement to the
14 Settlement Classes; and (3) create and maintain a call center where the Settlement
15 Classes can obtain information. Settlement Agreement at ¶¶ 2.6-2.7. Heffler has
16 fully implemented the notice plan approved by this Court. *See* Declaration of
17 Lisa A. Luciotti of Heffler Claims Group.

18 **D. The Settlement Classes Should be Finally Certified**

19 In its Preliminary Approval Order, this Court provisionally granted class
20 certification. Dkt. No. 74 at 7:11-14:6. For all the reasons set forth in Plaintiffs'
21 preliminary approval briefing, and the Preliminary Approval Order, the Court
22 should finally certify the Settlement Classes.

23
24
25
26
27
28
MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL

V. CONCLUSION

For all of the foregoing reasons, Plaintiffs respectfully request that the Court enter an Order (1) approving the Settlement Agreement; (2) determining that notice, while not necessary, was provided to the Settlement Classes pursuant to the Settlement Agreement; (3) finally certifying the Settlement Classes; (4) granting Class Counsel \$22,096 in costs; and (5) approving incentive payments of \$4,819 each to Plaintiffs Bee, Denning, Inc., Gregory Chick, and Daniela Torman.

RESPECTFULLY SUBMITTED AND DATED this 28th day of October,
2016.

TERRELL MARSHALL LAW GROUP PLLC

By: /s/ Adrienne D. McEntee

Beth E. Terrell, CSB #178181

Email: bterrell@terrellmarshall.com

Mary B. Reiten, CSB #203412

Email: mreiten@terrellmarshall.com

Adrienne D. McEntee, *Admitted Pro Hac Vice*

Email: amcentee@terrellmarshall.com

936 North 34th Street Suite 300

950 North 5th Street, Suite 300
Seattle Washington 98103-8869

Seattle, Washington 98103-6603
Telephone: (206) 816-6603

Facsimile: (206) 319-5450

Fax: (208) 319-3450

Stefan Coleman

Stefan Coleman
Email: law@stefancoleman.com

LAW OFFICES OF STERLING LAW

LAW OFFICES OF STEPHEN A. COHEN
201 South Biscayne Boulevard

201 South Biscayne Boulevard, 28th Floor
Miami, Florida 33131

Miami, Florida 33131
Telephone (877) 322-0

Telephone: (877) 333-9427

Facsimile: (888) 498-8940

Attorneys for Plaintiffs

MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL

CERTIFICATE OF SERVICE

I, Adrienne D. McEntee, hereby certify that on October 28, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Gene S. Stone, CSB #162112
Email: gstone@homan-stone.com
HOMAN & STONE
12 North Fifth Street
Redlands, California 92373
Telephone: (909) 307-9380
Facsimile: (909) 793-0210

Janine C. Prupas
Email: jprupas@swlaw.com
SNELL & WILMER, L.L.P.
50 West Liberty Street, Suite 510
Reno, Nevada 89501
Telephone: (775) 785-5440
Facsimile: (775) 785-5441

Attorneys for Defendants

Scott A. Marquis
Email: smarquis@maclaw.com
Candice E. Renka
Email: crenka@maclaw.com
MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
Telephone: (702) 382-0711
Facsimile: (702) 382-5816

MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL

1 Gary E. Mason
2 Email: gmason@wbmllp.com
3 WHITFIELD, BRYSON & MASON, LLP
4 1625 Massachusetts Avenue NW, Suite 605
5 Washington, DC 20036
6 Telephone: (202) 429-2290

7 *Attorneys for Plaintiff Daniela Torman*

8 DATED this 28th day of October, 2016.
9

10 TERRELL MARSHALL LAW GROUP PLLC
11

12 By: /s/ Adrienne D. McEntee
13 Adrienne D. McEntee, *Admitted Pro Hac Vice*
14 Email: amcentee@terrellmarshall.com
15 936 North 34th Street, Suite 300
16 Seattle, Washington 98103-8869
17 Telephone: (206) 816-6603
18 Facsimile: (206) 319-5450
19
20
21
22
23
24
25
26
27
28

15 *Attorneys for Plaintiffs*
16
17
18
19
20
21
22
23
24
25
26
27
28

MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
MOTION FOR FINAL APPROVAL